UNITED NATIONS

EIGHTH
UNITED NATIONS CONGRESS
ON THE PREVENTION OF CRIME
AND THE TREATMENT OF OFFENDERS

Havana, Cuba, 27 August to 7 September 1990

Distr.
GENERAL

A/CONF.144/20
7 June 1990

ORIGINAL: ENGLISH

Item 7 of the provisional agenda*

UNITED NATIONS NORMS AND GUIDELINES IN CRIME PREVENTION AND CRIMINAL JUSTICE: IMPLEMENTATION AND PRIORITIES FOR FURTHER STANDARD-SETTING

Note by the Secretary-General

On the recommendation of the Committee on Crime Prevention and Control at its tenth session, the Economic and Social Council, at its first regular session of 1989, adopted resolution 1989/57 on the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. In that resolution, the Council recommended, subject to the availability of extrabudgetary funds and consideration by the Committee, the preparation, publication and dissemination of a guide for criminal justice practitioners and others engaged in similar activities, taking into account the work already carried out on the subject. As mentioned in the report of the Secretary-General on the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (E/AC.57/1990/3), a draft Guide was prepared with the assistance of the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations.** The Economic and Social Council, on the recommendation of the Committee on Crime Prevention and Control at its eleventh session, at which the Guide was considered, adopted resolution 1990/22 of 24 May 1990, in which it invited the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to recommend that the Guide be given wide distribution. The text of the Guide is annexed to the present note.

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*A/CONF.144/1.

**The report was written by Joanna Shapland, of the University of Sheffield, and was reviewed by a group of experts convened in November 1989 with the support of the Home Office of the United Kingdom of Great Britain and Northern Ireland.

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Annex

GUIDE FOR PRACTITIONERS REGARDING THF IMPLEMENTATION OF THE DECLARATION OF BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME AND ABUSE OF POWER

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I. INTRODUCTION

1. On 29 November 1985, the General Assembly adopted by consensus resolution 40/34 and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power annexed thereto,* in which measures were recommended to be taken at various levels to improve access to justice and fair treatment for victims of crime and to provide redress to them, through restitution or compensation, as well as the necessary material, medical, psychological and social assistance. In part B of the Declaration, dealing with victims of abuse of power, States were urged to proscribe such abuses and to provide appropriate remedies. The General Assembly, in adopting the Declaration, recommended that, at the international and regional levels, measures should be taken to develop ways of providing recourse where national channels were insufficient. The Basic Principles apply, without discrimination, to all countries, at every stage of development and in every system, as well as to all victims.

2. These provisions place corresponding responsibilities on central and local government, on those charged with the administration of the criminal justice system and other agencies that come into contact with the victim, and on individual practitioners. The purpose of this Guide is to help such authorities, practitioners and other bodies and individuals concerned in their endeavours to implement the Declaration.

3. Since the Declaration was adopted, a considerable amount of work has been done to determine the effectiveness and practicality of different ways of meeting the needs of victims. The experiences of different countries in this area are reflected in the present Guide.

4. One fundamental experience has been that the effects of crime on the individual victim and on the community should be the point of departure for developing measures to assist victims.

A. Effects of crime

5. The most obvious effects of crime or abuse of power are loss or damage to property, and physical injury. Less often recognized are the inconvenience and the loss of time in obtaining financial redress and replacing damaged goods.

6. For many victims, however, these practical effects are of considerably less significance than the unexpected mental consequences. Victimization is a shock. Despite a generalized fear of crime, people do not expect to become involved with crime or to have it happen to them. The initial reaction is likely to be one of disbelief, followed by shock, general disorientation and often extremes of fear or anger. People will start trying to understand why the incident has occurred and how it could have been avoided. They may report that they are unable to stop thinking about the event, even at night. In searching for an explanation tolerable to them, it is normal for victims to go through a process of attributing blame, often illogically, either to themselves (often experienced as guilt), or to relatives or friends for not having protected them; or to groups superficially resembling the offender; or to other targets often accused of crime in that society. In particular, they may blame the criminal justice system for failing to protect them.

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*In the present document, the word "victim" is used in accordance with the definitions given in paragraphs 1 and 18 of the Declaration.

7. These mental effects will be compounded by restrictions that victims themselves place on their social, community and personal life as a consequence of the offence. Emotional reactions do not just affect those we think of as frail, but even, for example, the young, or male heads of households. Their difficulties in coping with the consequences of victimization tend to be exacerbated by their own view that they should be able to cope. People who are assaulted at work (such as shopkeepers, bus drivers or police officers) can undergo considerable stress, since they have to return to the workplace where the assault has taken place.

8. The effects of victimization - and people's reactions to it - are very individual. It is, however, common knowledge that personal recovery is influenced by the severity and personal significance of the event, the personal and family resources of the victim, and the attitudes and behaviour of people coming into contact with the victim. Lack of interest or an inappropriate response from the authorities can prolong, or even intensify, feelings of fear, anger and confusion. Still worse, an inadequate response can reinforce the view that the authorities are in some way to blame for the level of crime.

9. It is for this reason that society and the criminal justice system cannot ignore the needs of victims of crime. Victimization intrudes into people's daily lives, damaging their trust in the way in which their neighbourhood and their society is run, and in the ability of their community to keep crime at bay. 1/ If society does not provide an adequate response, then serious alienation can occur. A peaceful and orderly resolution of conflicts depends upon showing compassion and respect for the dignity of victims by meeting their expectations.

10. Indirect victimization - effects on relatives and friends of the direct victim - can occur not only with serious and violent offences (such as sexual assaults or cases of persons who have been made to "disappear") but also with some property offences, such as burglary. Recent work on child victims where there has been a burglary in the house indicates that children can develop long-lasting worries and anxieties about the possible repetition of the offence and may try to avoid the house or the rooms touched by the burglary. 2/ Such indirect victimization is also common with major crimes affecting many victims, such as terrorist attacks, as well as industrial accidents and pollution. If the disaster is confined to a small community or a town, then it is likely that most people in that community will know someone who has been killed or hurt. Effects include initial shock at hearing about or seeing the offence, sudden awareness of mortality and risk (particularly if the cause is still operative) and irrational guilt at not having been able to prevent the hurt, as well as practical problems of coping in that community. All these effects depress the ability of the uninjured members of the community to cope with the disorienting effects of major offences.

11. Not all victims suffer serious or lasting effects. A minority of those suffering property loss, however, and a majority of the victims of the more serious offences of sexual and physical assault or of life-threatening arson, and the relatives bereaved through homicide or extra-judicial executions will suffer significant emotional effects over a period of weeks, months or even years.

12. Crime and the abuse of power not only lead to direct and indirect victimization but also induce fear in the general population. In that sense, everyone is a victim. The experience of victimization tends to make victims more sensitive to the possibility of future incidents and to increase their fear of crime. As most victims ask for advice on crime prevention, it is important

that it should be readily available. A sound crime prevention policy should be seen as complementary to victim assistance. It is not possible to cover general measures relating to fear of crime and crime prevention in this Guide.* Nevertheless, it is important:

(a) That, whenever a service or measure for victims is being considered, any publicity or implicit messages given out in relation to the measure should not add unnecessarily to the fear of crime;

(b) That measure should be taken to protect victims from further victimization;

(c) That community support, support and reassurance by criminal justice personnel and crime prevention measures should be offered to victims to increase their feeling of security.

B. Scope of the Guide

13. The focus of this Guide will be on the needs of victims, as recognized in the Declaration, and on the experiences of countries in adopting measures to meet those needs. It has become clear that measures for victims, to be most effective, must be appropriate to the particular social and legal climate of a country and to its resources and priorities. There are a number of ways to provide victim services for each type of need. Victims' rights and services will ultimately only succeed when they become an everyday mode of operation of all those who deal with victims, and to accomplish this, they need to fit in with the prevailing legal and social culture.

14. Some needs will be met by informal networks of family, friends, workmates and the local community. The extent to which victims can rely on these will vary. They may well, for example, be stronger in developing countries. Other needs will require criminal justice personnel to work in a different way, or will affect other State or local services. Some will require legislation; others may be better implemented through changes in working practices, or fostered by guidelines, or training sessions, or conferences. In some instances it may be better to set up specialized victim services or agencies; in others to ensure that the responsibility for victims is taken within existing agencies. General services cannot, however, always take into account all the needs of victims. Equally, the provision of services for victims must take into account the needs of the victim as a whole person - rather than the victim in the role of "patient", or "witness", for example.

15. The Guide is organized according to the different needs of victims: the need for access to justice and fair treatment, for reassurance, for financial assistance through restitution and compensation and for other assistance. It is not possible in such a short document to cover all the possibilities - indeed, the rapid pace of developments concerning victims precludes any exhaustive review. The Guide must be regarded as suggestive, rather than definitive, but it is hoped that it will be of value to practitioners.

16. Equally, it must be stressed that, though a whole range of measures will be discussed, it is not implied that they should all be introduced in any one

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*See, for example, the resolution on the prevention of urban crime adopted by the Committee on Crime Prevention and Control at its eleventh session (E/1990/31, chap. I, sect. C, decision 11/102), the inventory of crime prevention measures (A/CONF.144/9), and the Council of Europe recommendation on the organization of crime prevention (R(87)19).

country. If victim services are relatively undeveloped, it may seem to be an impossible task to start to provide assistance to victims. The major principle in implementation must be that it is better to offer some service, however inadequate, than to do nothing. Indeed, just recognizing the need to do something sends a message to victims that their worries and problems have not been ignored.

C. Types of offences, types of victims

17. Evidently, victims of different offences and other vicissitudes will to some extent have different needs. It is nonetheless clear that victims of all kinds of crime and abuse of power have some needs in common. When they are injured, they require medical attention. When they are emotionally disturbed, they require support. When property is damaged or taken, there are financial losses to the victim and a need for recompense. The Guide will consider the particular requirements of different kinds of victims (children, minority groups, the elderly, women, foreigners etc.) and of victims of different kinds of crime and abuse of power.

18. The difficulties that victims encounter do not all arise simultaneously at the time of victimization. The need for medical attention, for example, is usually immediate, but the extent of the financial losses incurred may only become apparent to the victim after some days or weeks have passed. The victims' emotional problems may change as time goes by. The remedies and measures taken for victims need to be planned to come into force at the most appropriate time for them.

19. Those who turn to victim services may have contributed in some way to the offence. For some types of need and remedy, however, the circumstances of the offence are immaterial and should not affect the rights of victims or the services they receive. Urgent medical aid, for example, should be available to everyone who requires it.

II. ORGANIZING THE RESPONSE

A. Finding out the needs of victims

20. It is important to plan victim services to meet the needs of the particular population and types of crime in a country. There is now a foundation of knowledge on the needs of victims derived from experience and research studies in different countries. Where countries find it possible to undertake studies themselves, this is the best way to proceed. But it is possible to acquire valid information on general victim needs from studies carried out in other countries and to use that information to plan victim services for a country or a locality.

21. In planning victim services, the authorities concerned should:

(a) Gauge the frequency and types of victimization (using recorded crime rates,* victimization surveys** or other suitable means) and from this

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*For many services, a good starting point can be the statistics of offences recorded by the police or prosecution or dealt with at court.

**A victimization survey interviews a random sample of the population of an area or country to ascertain whether they have been a victim of an offence in the last year.

estimate the numbers and distribution of victims likely to require particular services;

(b) Determine the most suitable geographical areas for the provision of each service in relation to the extent of victimization. In particular, serious crimes such as rape and murder occur rarely 3/ but are likely to require more specialized services, so that larger catchment areas may be more appropriate. The more common property offences and minor assaults may best be dealt with locally, tapping local and community resources and strengths;

(c) Ensure that all relevant groups in the community are consulted as to the most suitable form of service;

(d) Plan for services to be phased in gradually in accordance with the resources available. For example, keen new workers need to gain enough experience to keep them involved and learning gradually, but the services should not be flooded with victims too rapidly, so that the workers feel that they cannot cope with their new role. Equally, demand from victims or others using a service is likely to grow with time. As the service becomes more familiar, expectations will rise and victims become more aware of its presence and possibilities.

22. It has been found very helpful to entrust some central agency or part of government with the responsibility for victim services, as they develop. It can then see how far the existing social, medical or legal services can deal with victims' needs and can monitor new services.

23. It is important to keep new services under review, to evaluate their operation and to find out how those using the service experience it. Responding to the needs of victims is a dynamic process, and one in which the key is imaginative use of the resources available. It is quite possible, and indeed often very helpful, to start in a small way and to expand gradually, in accordance with the means of the country.

B. Establishing victim programmes

24. In order to improve a service, people need to feel they are involved and working with a common purpose. There are a number of different ways to keep people involved:

(a) As members of an association providing victim services, whether at the international, national, regional or local level - either specific to victims or to particular types of victims of crime or abuse of power;

(b) By forming sections of professional associations (of criminal justice practioners, doctors etc.);

(c) By involving intergovernmental and non-governmental associations;

(d) Through conferences, seminars and discussion meetings (for training, for setting and reinforcing standards, for sharing information, for learning about new developments);

(e) By using standing committees for inter-agency communication at the senior level, in order to ensure that any bureaucratic problems are minimized, since agencies tend to operate relatively independently of each other;

(f) Through international bodies such as the United Nations and other international and regional bodies (to energize, persuade, set standards for action, and inform practitioners and Governments about the needs of victims and possible measures to meet them).*

25. The paradox of supporting and assisting victims is that although victims need reassurance that they were the victims of the offence, and acknowledgement of their status by the community and official agencies, they also require support and assistance to get back to their normal lives as soon as possible. All the interventions by agencies with regard to victims should be designed to help people to recover and, eventually, to assimilate the victimization into their life experience - even to improve their ability to cope in the future.

26. The questions to be asked when thinking about organizing services for victims are:

(a) What is the relevant population of victims to be supported and where is it located?

(b) Is an external service needed or can family and friends cope?

(c) Can the service be located within and draw strength from existing community arrangements or the resources of criminal justice system agencies, or should it be independent?

(d) If the service is independent, what links should it have with other victim-oriented services and with general medical, social and criminal justice services, and how can it draw upon or energize their contribution?

(e) How will it contact victims and ensure that the maximum number can learn about the service?

(f) What kind of service should be offered and over what period - is it just crisis intervention immediately after the crime is committed, or a longer-term proposition? Does the kind of service provided have to change with time?

(g) How can the service be managed to ensure the most effective delivery of services to meet the real needs of victims?

27. Many of the victim support and assistance services that have been set up have been generic - attempting to offer a range of services to victims of many offences. It is, however, highly unlikely that there could be a complete umbrella service in any country seeking to meet all the different kinds of demand from all types of victims, if only because some of the needs of some victims require the victim service to be completely independent of the State

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*In particular the Declaration, but see also, for example, the Convention of the Council of Europe on the Compensation of Victims of Violent Crime, 1983, No. 116; its Recommendation on the Position of the Victim in the Framework of Criminal Law and Procedure, 1985, No. R(85)11; and its Recommendation on Assistance to Victims and the Prevention of Victimization, 1987, No. R(87)21. The present initiatives for the establishment of a United Nations global crime and criminal justice information network will be of considerable benefit here.

(the clearest example is in cases of abuse of power), whereas other needs of other victims may be better served by a closer relationship (for example, in helping victims to obtain State compensation). A more typical model for the provision of services in a country would involve a variety of groups and schemes. As far as victims are concerned, it is crucial that this patchwork of services should work well together.*

III. ACCESS TO JUSTICE AND FAIR TREATMENT

A. Reassurance

28. One important need of victims is for reassurance from other people that they are the victims of crime, and that the crime is disapproved of by that society and neighbourhood. This need for reassurance is amplified by the guilt felt by most victims - that, somehow, they could have avoided becoming a victim. It is important for all those who come into contact with victims to be aware of the tendency of all victims to blame themselves for the crime, even when this is completely unwarranted.**

29. Reassurance can and should be provided by different groups of persons connected with the victim. The support given by the family, friends and work colleagues is vital. The criminal justice system must take proper cognizance of the crime. Agents of the criminal justice system may require training in order to be made aware of this deep need of all victims for reassurance. Support to the victim may also possibly be provided through community-based programmes. Medical personnel, health care workers or social workers with whom the victim may come into contact will need to be trained to be able to play a part in reassuring victims and answering the worries about victimization that many victims will express to them. 4/

30. Victims of abuse of power have particular difficulty in gaining recognition of the fact that they have been victimized. The essence of abuse of power is that it is committed by those who should be expected to protect the population. The shock and loneliness of victimization can be much greater for these victims. With regard to abuse of power, for offences committed by particular groups within a country (dominant sects or groups, companies etc.), prompt condemnation of the action by the State and by the victim's community will help - as will the message conveyed by any practical action. Where the offender is the State itself, the principal problem of victims can be obtaining acknowledgement that an offence has occurred. Here the groups to offer support may consist of people sharing the characteristics of those who have been victimized or who have been victimized previously themselves. Sometimes they have by necessity to be based outside the country.

B. The victim and the criminal justice system

31. The work-load of the criminal justice system is based largely on the decisions of victims to report cases to it and on the wishes of those victims

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*See section V, subsection F, below.

**Women who have been the victims of sexual or physical assault are particularly likely to blame themselves (see L. L. Holmstrom and A. W. Burgess, The Victim of Rape: Institutional Reactions (Chichester, John Wiley, 1978).

to have their cases dealt with by the State through its criminal justice system. More recently, it has been found in several countries that victims may become disappointed with the way in which they are treated and "their" cases are dealt with - the phenomenon of "secondary victimization". Much of this disappointment and disillusionment can be due to thoughtlessness and lack of consideration by those running the criminal justice system - the police, prosecutors, court officials, judges etc.

32. A vital need of victims in relation to the criminal justice system is for information: on what is happening to the case, what should be happening next, who is handling it, who can be asked, and what the victim will have to do. The need for information is present at all stages, but the role of the police (normally the first agent the victim will encounter) and the prosecutor will be crucial. The difficulty is that when a group of professionals works in a particular setting for a time, they adjust their ways of working to what is most convenient for them - using jargon, advocating the quickest form of procedures and so forth. Outsiders (not only victims but also other lay people such as offenders and jurors) find it very difficult to understand the way that professionals talk. And because the professionals are at home in the situation, they find it difficult to understand why others can be lost and confused.

33. It is important to realize that the legal system will be new and strange to most victims. A second need of victims is therefore for help, counselling and support while dealing with the criminal justice system. As in other aspects of victim services, it has been found that this help should be offered not in the manner of welfare or charity, but as what is due to victims who have brought their offences to the system.

34. Obviously, those who are providing this support need to be familiar with the procedures of the system and its requirements, and will need access to professional advice when they come across something unfamiliar. Both professional and volunteer help has proved useful in individual schemes. Some forms of support to victims are very time-consuming (sitting with individual victims at court, or running court-based or police-station-based information or refreshment facilities, for example). Volunteers can be very helpful here. Victim assistance in the criminal justice system has been organized differently in different countries. Sometimes it is part of the advice given by generalist schemes, which may reserve some workers for this specialized area. Sometimes specialized criminal justice support schemes have been set up - victim-witness assistance programmes, for example. 5/

35. In cases in which the victim is fearful of intimidation by the offender, the necessary protection and support should be offered by the police and other agencies (for example, police action, access to community support schemes, rehousing). It is extremely important that there should be effective means of dealing with any intimidation and that the measures taken should be communicated to the victim.

C. Role of the police

36. The police are extremely important as far as victims are concerned. They are, as a rule, the first, and often the only, official agency that victims encounter as a direct result of the offence, and they may often remain the link agency with the victim throughout the criminal process. The reaction of victims to the whole criminal justice system may well be determined largely by the response of the police.

37. The expectations of victims vary considerably, according to the offence and to cultural factors. Research on these "customer" expectations of victims is still in its infancy, but it is clearly important for the police to be aware of citizen expectations. Taking steps to find out these expectations should therefore form part of the police planning process: initiating surveys, using public consultative groups and processes, talking to victim assistance agencies, and conferring with other professionals dealing with victims.

38. Research indicates that it is very important to assure victims, through the manner and behaviour of the police officers they meet, that the offence is being considered individually and properly.* Because police officers deal with large numbers of offences, some officers can end up by treating both offences and victims as bureaucratic routine. A show of boredom, of merely "going through the motions", of implying that crime is a trivial or an expected occurrence, can result. This can cause considerable dissatisfaction, anger and insecurity among victims, and also a greater fear of crime.

39. Police officers are also the ones best placed to refer victims to victim assistance agencies. They themselves have a role in providing immediate support and reassuring victims that offending will not be allowed to persist in the community.

40. The police, additionally, have an important role to play in providing information to victims. They usually deal with almost all victims whose cases have been reported to the criminal justice system. Agencies that come in at a later stage in the process generally deal only with a selection of victims (cases in which the offender has been caught or is being prosecuted). The initial agency, therefore, is in a very good position to inform victims about possibilities for financial redress, the likely progress of the case, and the services available. It is very important that the best means of imparting this information should be considered. Training officers to recognize the needs of victims, and to be aware of the services available and letting them know that it is their duty to pass on this information should be a component of both initial police training and refresher courses. Senior officers should show them support by emphasizing its importance in the course of their supervisory functions and in decisions on rewards and promotion.

41. Victims usually meet the police very soon after the offence has taken place. They may be in some shock and not be able to take in all the information they need. Information about victim assistance, financial redress and the role of the victim in the criminal justice system may, therefore, have to be given both verbally and in writing. Well-written leaflets and guides, using cartoons and graphics, can be left with victims so that they can refer to them later. More detailed published guides that victims can obtain relatively cheaply, and which discuss the legal process in more detail, are also helpful as a back-up. In a few countries, such guides have been published commercially, with support from the State or victim assistance agencies. 6/

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*This is supported by all the available research studies. See, for example, M. Maguire, "Meeting the needs of burglary victims: questions for the police and the criminal justice system", in Coping with Burglary: Research Perspectives on Policy, R. Clarke and T. Hope, eds. (Boston, Kluwer-Nijhoff, 1984); and K. Chockalingam, "Victimological research in India - problems and perspectives", International Symposium on Victimology, Zagreb, 1985.

D. Special considerations regarding the abuse of power

42. One of the major problems with abuse of power is that it is sometimes difficult to persuade State agencies that an offence has occurred and that the case should be pursued through the criminal justice system. Sometimes this is due to the rare or technical nature of the offence (as in pollution, safety or financial transaction offences by companies or individuals). The prosecuting authority then needs technical expertise. Many countries have set up specialized reporting or prosecuting agencies for these offences, with specially trained staff. It is important that victims be aware of the existence of these agencies. The agencies need to use national and local media to inform people of their existence and their modes of working; they must also realize that their decisions will affect individual victims and so take steps to ensure that victims are informed and consulted.

43. Other instances of the abuse of power are problematic for justice systems because they involve transnational elements and jurisdictional problems. Victims may find it difficult to persuade prosecuting authorities or the police in one country to act. This problem is likely to increase in the future, particularly in respect of fraud and the financial markets. Victims cannot solve these problems on their own. They are international problems, and require international solutions, promoted by Governments and by international associations and agencies, including the United Nations. It is important that whenever new transnational financial opportunities are created, the potential for fraud is considered and that measures are adopted not only to proscribe and prevent such fraud and to punish offenders but also to help victims to report offences and receive appropriate assistance. Meanwhile, national prosecuting agencies and others should be prepared to help and advise victims, even if they are not able, for jurisdictional reasons, to take legal action.

44. The fundamental problem in some forms of abuse of power, however, is that the offence is committed by an agent of the State and that the law-enforcement or justice officials are then unwilling to have the offence reported to them or to act upon it. They fail to treat the victim as a victim. The result is, of course, that the facilities open to victims in general are not open in those particular cases, and that victims feel isolated and become depressed or angry about the nature of criminal justice and the kind of society in which they live. Sometimes abuse of power occurs in the context of a political debate or struggle about the governing of that society and then it can be extremely difficult to alleviate individual victimization without it becoming linked to wider political issues.

45. These abuses are often ordinary crimes (assaults, property damage, arson etc.), rather than esoteric or technical matters. They can, however, involve more serious violence (for example, murder, enforced "disappearances", torture etc.). The need of victims for reassurance, support and financial redress is the same as it is for victims of similar crimes that are not also abuses of power. Moreover, for victims of abuse of power, it is particularly important that the case be dealt with in the criminal justice system with the seriousness commensurate with its gravity (including the use of disciplinary sanctions against abusers, where relevant). Where serious violence or major destruction of property is involved, there are likely to be indirect victims as well: the relatives of those detained or who have "disappeared", and the families of those whose livelihood or homes have been destroyed, or where the breadwinner can no longer work. These indirect victims will often require as much support, both emotionally and materially, as the direct victims.

46. Agencies concerned with the abuse of power have concentrated many of their efforts on the need to persuade the relevant State authorities that the instances of it should be treated as the crimes they usually are, and be formally and officially clarified and accounted for by means of effective and impartial investigations. Many of the methods adopted by agencies revolve around the need to keep the problem constantly in the minds of the authorities. Different agencies and organizations have found it most effective to work in different ways. Some use publicity as the main weapon. Publicity can have several purposes: it can make official agencies aware of the problem; it can make the public and influential people in that country aware of the problem and encourage them to put pressure on official agencies; it can encourage international bodies, other Governments or agencies in other countries to put pressure on official agencies; it can ensure that there is no further ill-treatment because the offenders are aware that they are under scrutiny by the media; it can encourage witnesses to come forward; and, most importantly of all, it can make victims feel that they are not isolated and forgotten and that, even if their own official agency or an individual within that agency has offended against them and is now unwilling to admit fault, there is a wider community that does see the conduct as wrong and them as victims.

47. Publicity, though a major effective force, is not the only one. 7/ Letters and representations to State authorities reminding them of their obligations under national law or international customary law or conventions can be extremely effective either in eliciting direct action or in ensuring that the matter is not buried. Legal actions, where possible, have a similar effect (private prosecutions, civil actions). In some circumstances the major need is to ensure that victims who are detained by the authorities are not forgotten, and here visits are crucial, as is the discovery of where people are being held and the improvement of the conditions under which they are detained. Victims also have material needs and, in the more severe cases of abuse of power, they will have no means of obtaining relief through normal national channels. They may need money, clothing, food, books, health care etc., and these may have to be provided by associations, unofficial groups or international associations. The families of detained victims may also need assistance, either material or in opening up channels of communication. Where abuse creates refugees, other countries will be involved in helping to provide shelter and food.

48. The kinds of bodies involved in helping victims in these cases will necessarily differ, as may the tactics for persuasion or assistance in each situation. In some cases, publicity is the most important and bodies (as a rule ad hoc bodies, self-help groups, international, national and local human rights groups) must publicize their activities. If legal actions are started, they may require that the organization take action, giving the impression that it is taking sides in a conflict, and this may subsequently preclude other opportunities for action. In other cases, it is important to ensure that Governments are prepared to let someone in to see where people are presumed to be detained and to visit them (or to see where victims are buried and to exhume them for the purposes of autopsy). Here, the organization must command international respect. Publicity and effective intervention may be incompatible.

49. Effective action on behalf of victims of abuse of power will thus involve a variety of organizations and groups of people. No one organization can take all the forms of action listed above. Local groups have immediate knowledge and access to support for victims (ad hoc groupings, human rights groups). National groups and international associations have greater resources and access to more senior figures. Where there is war, disorganization or civil

strife in a country, or where the effects of the offence are very serious, local and national possibilities for relief may not exist. In such a situation, international networks that can funnel aid from other countries (for example, in the form of expertise or material supplies) can be very effective. Where State actions are concerned, an international association with the necessary prestige and legal standing may be the only one able to penetrate the situation.

50. The need for a large number of agencies functioning at different levels makes it more difficult for victims and those acting on their behalf to gain access to the right help. Most agencies active in this field recognize the need to publicize their existence and activities, and this is crucial. It is also important that agencies do not get in each others' way. Where there are many, the potential for confusion and even conflict is greater, and it is important that national and international networks of communication develop between agencies concerned with abuse of power. Where a victim approaches one agency, but that agency feels it is an inappropriate case, ideally it should be able to refer the victim to a more appropriate body.

E. Prosecutors, courts and hearings

51. The criminal justice system differs from one country to another, and the role played by victims differs accordingly. In some countries the victim can serve as the prosecutor; in some he or she only has the status of a prosecution witness. Whatever kind of forum they are engaged in, victims wish to know what is going to happen and what they will be required to do. The need for information is paramount throughout the criminal justice system.* Information can be supplied in different ways: by victim assistance agencies, by the police, prosecutors and courts, or through written material. There is a difference between general material, needed by all victims going through that kind of process (leaflets, general explanation, information centres in courts or prosecutors' offices etc.) and material about the particular case of the victim (dates and times of hearings, charges, bail or custody decisions, whether the victim needs to appear, outcome, sentences etc.).

52. All courts and prosecutors' offices should consider carefully what general material victims will need in order to be able to participate in the proceedings. It must be remembered that if victims are given insufficient information, they may end up by being disillusioned by the criminal justice system and unable to play their proper role in the case. Victims feel that, if they report a case to the criminal justice system, they have the right to know what the system does with it. Many victims wish to be kept informed of the progress of their case and to be given reasons and explanations for the decisions taken. They also expect reasonable attention to be paid to the inconvenience they may have been caused in attending court hearings. All agencies of the criminal justice system could benefit from considering systematically all their operating systems and how a lay person - a stranger to the system - would cope with each of them.

53. The formal possibilities for allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings vary from one jurisdiction to the next. It is important that such procedures should work effectively. Some victims will also wish to have something to say about the way in which the case is dealt with by the criminal justice system.

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*The term "criminal justice system" will be used in this section to apply to all forms of courts and all decision-making by prosecutors and judges.

Where victims have information relevant to the prosecution, trial or sentence, it is also important that this information should be effectively communicated. Disregard of the expectations of victims may well have an adverse effect on the administration of justice. Justice must be seen to be done.

54. With respect to prosecution, it is important that victims should believe that their case has been fully and carefully considered, and that they have confidence in the decision that is made to prosecute or not. It is necessary to have systems that ensure that if victims are dissatisfied with a decision, there is a possibility for review or for the victims themselves to take the case to court. 8/ Different mechanisms have been adopted: review by higher tiers of prosecutors, review by the courts, review by an ombudsman, private prosecution, award of damages where decisions are found to be incorrect and have caused loss etc.

55. Giving evidence in court is a frightening experience, particularly if the victim is doing so for the first time. In some cases, the provision of support in court can be very helpful, to ensure that the victim feels that he or she has been able to participate properly and that the court has the best evidence before it. Facilities also need to be provided to ensure that all witnesses are able to attend court easily (refreshments, transport, child care etc.). In some countries, victim assistance schemes have supported individual victims in court, especially in the case of victims who have special problems (rape victims, child victims etc.). In others, local court services for victim support have been set up to provide a generic service in that court, such as a trained counsellor in a waiting room specially designed to provide a relaxed atmosphere. 9/ Where victims are very fearful at having to give evidence (for example, child victims of sexual assaults), some jurisdictions have allowed the use of videoed evidence or direct video links. In some, legal aid is available for victims so that they can have their own legal adviser in court and this is of course particularly important where victims are the prosecutors or where their civil claim is being heard at the same time.

F. Publicity and the media

56. Giving publicity to the needs of victims is a vital means of educating both professionals and the general public to understand the effects of victimization. It has an information-providing role, as well, for those who have recently been victimized. Newspapers, radio, television, films - all can convey the experience of victimization and publicize the services that are available for victims. Very often, it is not possible to introduce services that will benefit victims until the climate of opinion in the country is favourable and the public understands the need for such moves.

57. Some media publicity can, however, be distressing to individual victims. Revealing the exact names and addresses of victims may expose the victim to further victimization (for example, by giving clues to burglars that a house is unoccupied). Certain crimes are so distressing or the victims so fragile (rape cases, child victims) that any identification of the victim in the mass media, particularly television, at the time of the crime will have serious consequences. These are all matters in which it is important that editors of newspapers and radio and television producers should be aware of victims' difficulties and of the potential consequences of reporting in a particular way. In respect of certain cases (for example rape) some countries have passed legislation specifying that victims may not be named. It is preferable to obtain the consent of the victim before identification is made in the mass media. Criminal justice agencies need to be careful about the information

they give to the press. Countries may wish to develop codes of practice, with the participation of victim associations and media representatives.

IV. RESTITUTION AND COMPENSATION

A. General considerations

58. Obviously, the financial needs of victims vary greatly according to the particular circumstances of the crime and the social situation of the victim. Many victims suffer little or no financial loss, but a few either suffer a devastating loss or are so poor that small losses can have a calamitous effect and cause great hardship to the victims. The response to financial need has to deal both with the majority of victims who do not have major financial needs, and with the small minority whose problems are both major and pressing.

59. Financial effects are not restricted to the cost of property taken or damaged. Some victims may incur costs as a result of the crime - for medical treatment, for wages lost as a result of taking time off from work, for transport costs to courts and police stations, and so forth. The actual costs to the victim will depend very much upon national and local systems for medical care, social support and victim-witness assistance programmes. Given this diversity, it is only possible to give some general guidelines.

60. Financial effects and, therefore, financial needs also vary according to when they occur. Some needs are immediate. If someone's house has been burnt down, that person may need financial assistance that very night. If someone's basic possessions have been stolen, then some of these also will need replacing immediately. Other financial needs will only become pressing after days or weeks have passed. Someone who is injured and loses wages or incurs extra costs will find that this builds up as time goes by. People can manage without some of their stolen possessions for a while, but will eventually have to replace them. There is a time-scale of financial effects, varying with the severity and type of offence.

61. It is very important to distinguish between financial costs (having direct monetary values) and the effects of the losses on the victim. Similarly, it is important to distinguish effects from needs that can be met from external sources and from compensation.* Compensation provisions must cover losses, effects and needs, and should attempt to meet the due expectations of victims. They often not only meet the victim's financial needs after the offence but in some way attempt to compensate for the effects of the offence, including both its physical and mental effects, as well as longer-term health problems.

62. The responses to the financial needs of victims include the provision of immediate financial assistance, often on a welfare basis; general State social and welfare assistance systems; private insurance; the development of means to

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*The word "compensation" is used in this Guide to denote any payment of money to the victim to help meet financial needs or mitigate financial effects, or to compensate the victim for his or her victimization. It includes payments through court processes and, more informally, from the offender and payments from general social funds, but not private insurance policy payments, or payments in kind ("reparation"). In much of the literature, the word "restitution" has been used instead of "compensation".

gain compensation from offenders through the civil legal system; the ability of victims to pursue a civil claim within criminal procedures; compensation from offenders ordered to be paid as part of the criminal process; informal diversionary or mediation-based compensation; and the payment of compensation from State funds (often through special victim-oriented "State compensation" schemes). The particular means chosen in any country will depend upon its legal and social culture and upon its resources. There is probably greater variation in financial compensation schemes than in any other area of victim assistance.*

63. Different mechanisms deal with different types of victims at different times. Offender-based mechanisms for financial redress, for example, can only apply to victims of violations where the offenders are known and can be subjected to that process. Also, it must be remembered that most offenders have limited financial means. Mechanisms that depend upon the operation of the civil or criminal justice systems tend to be slow-moving. More generally, systems for compensation, as opposed to financial assistance or welfare provision, tend to require that the cause of the offence be determined, and the offender, as well as the blame for the incident, be pinpointed, which takes time. These mechanisms cannot be expected to deal with the immediate financial needs of victims.

64. Nonetheless, the strength of compensation mechanisms lies partly in their judicial nature: if the victim is awarded compensation, he or she will feel it has been recognized that victimization took place and that he or she was a victim. This symbolic effect has been shown to be very important to victims both of conventional crime and of abuse of power.** Equally, payment by offenders has a symbolic element, in that the offender recognizes his or her fault and that reparation is being made. The mechanisms for financial redress carry within them messages about the way in which institutions and individuals regard crime.

B. Immediate financial assistance

65. The few victims who have considerable immediate financial needs are often looked after through mechanisms set up to deal with those who have been left impoverished through accident, disaster or misfortune. Victims of crime or abuse of power may not be the normal clients of such services, and so the agencies and their workers may not be aware of the emotional consequences of victimization, the potential shock suffered by the victims, and their likely reactions.

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*On the diversity of means and the wish to know more about different measures for financial redress, see the reports of the Secretary-General on the implementation of the Declaration (A/CONF.121/4 and E/AC.57/1988/3); see also M. C. Bassiouni, ed., International Protection of Victims (Association internationale de droit pénal, 1988); Changing Victim Policy: the United Nations Victim Declaration and Recent Developments in Europe, HEUNI publication No. 16 (1989). Council of Europe, Recommendation on the Position of the Victim in the Framework of Criminal Law and Procedure, 1985 (No. R(85)11).

**See J. Shapland, J. Willmore and P. Duff, Victims in the Criminal Justice System (Aldershot, Gower, 1985). Compensation can also have a major symbolic effect, in that it implies that the authorities are taking responsibility for the abuse of power.

66. Many of the small number of victims who suffer immediate financial effects draw upon their own resources or those of friends and neighbours, but these can often suffice for only a few days, and then a more organized response is necessary. Victim assistance agencies may have some limited funds available themselves, or, more importantly, they may be able to advise victims or their relatives on how to apply for assistance from social funds. Though only a very small proportion of victims are in extreme financial need, it is still important that victim assistance workers should be trained to give this advice and have relevant information available.

67. In the case of group victimization, the resources of the immediate community and community victim assistance groups are often insufficient to cope and State agencies or aid organizations will be needed to help. Those whose livelihood is destroyed or who are unable to resume work or provide for their families may be caught in an ever-deepening spiral of financial problems, and will need counselling and support to bridge the gap between immediate provision and any future compensation payment.

C. Reparation, diversion and mediation

68. Agreement by the offender to provide reparation or compensation to the victim through mediation is seen as direct redress for the crime and an acknowledgment of the victim's loss, hurt and suffering. It may also be designed to be a step towards the reconciliation of victim and offender, and towards ensuring that the conflict does not continue or escalate.

69. The simplest form of reparation and compensation is the payment of financial compensation by the offender to the victim informally, without any other persons or agencies being involved. Obviously, this occurs much more frequently in settings where the offender and the victim are likely to know each other and to run into each other frequently, for example in rural areas and in work settings or organizations.

70. In some countries, reparation by the offender has been formalized into a system of payments geared to the nature of the offence and may be enforced by community councils or community leaders. Where the community pressures are strong, or where reparation is seen as a duty incumbent on the family of the offender, this removes one of the most difficult problems with respect to reparation and compensation by offenders, namely their enforcement.* This communal or informal type of justice may be totally unrelated to the activities of the State courts, or, sometimes, judges or prosecutors will themselves take on the role of communal leader and step outside their formal procedures to urge informal reparation by the offender. 10/ Recognizing the lack of government financial resources, it is helpful to encourage customary mechanisms, particularly where no formal ones exist, or where they are inaccessible to victims.

71. Where victims and offenders are less likely to know one another, as in urban areas, more formal mechanisms and experiments have been initiated recently in many countries to promote reparation by offenders. Some are integrated into community structures and use recognized social leaders as

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*See the replies to the 1985 United Nations survey of redress, restitution and compensation for victims of crime (A/CONF.121/4).

mediators or as arbitrators.* Others, many of which concentrate on juvenile offenders, are linked to social agencies or to the criminal justice system, dealing with cases referred to them by official agencies and often aimed at diverting juveniles away from the formal State criminal justice system. There is little long-term experience of these schemes. Some find it difficult to establish the right level of referrals from the official agency. It is very important that there be a clear understanding between the referring agencies and the particular scheme of the kinds of cases that will be referred, of the procedures that will be followed, and of the likely level of referrals.

72. Victims need to have clear and full information about the scheme before they are asked to agree to take part. They must not feel pressured into agreeing, and must not be the last ones to be consulted. There is a danger that they may feel rejected if their case is referred away from the official agency to which they first took it.

D. Private insurance

73. Where national policies for financial redress to victims depend upon private insurance, it is important for Governments to consider the means by which victims may have access to such insurance. Mechanisms for meeting claims should also be administered fairly and should operate expeditiously.

E. Civil proceedings

74. In most countries, victims can make a claim for compensation from the offender in the civil courts. There have, however, been reports from many countries that, in practical terms, this is difficult for the victim. The offender may not be known, may not have sufficient means, or may not pay compensation, even if it has been ordered by the courts. The processes may be very slow. Victims may need legal assistance and legal aid to make sure there is equal access to justice. Nonetheless, in some instances pursuing a claim in a civil court may be the right option for victims, and it is important that victim assistance and advice agencies are aware of this option and can help and advise on it. There are now moves in several countries to make civil courts more "user-friendly", to make them more accessible to lay persons and to speed up the procedures.

75. It is very helpful if civil procedures allow a group of victims or persons acting on their behalf to take action together to gain compensation, especially in cases of abuse of power (class actions).

F. Action civile

76. In some countries, it is possible for victims (or sometimes groups or associations of victims) to pursue their civil claim against the offender during the criminal proceedings. Both are heard by the same judge, who both passes sentence and makes a civil judgement with regard to compensation. Evidence is given on both matters at the same court hearing.

77. The precise rights, duties and powers of the victim vary considerably from one country to another. In some, the victim has actively to seek out the court

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*A mediator persuades victim and offender to come to an agreement, which must be voluntary on both sides. An arbitrator decides on the result after both victim and offender have spoken.

court and start the civil claim; in others, the victim is automatically told when the criminal proceedings are to start. In some, the victim must attend throughout (creating problems with regard to work, childcare etc.); in others, only when he or she is required to give evidence. In some, legal aid and assistance for the civil claim is freely available; in others, it is more difficult. In some, the victim automatically sees the "file" of the prosecutor or judge on the case; in others, access is more limited or has to be asked for. There may be limits on the amount of compensation the judge can award or on the types of damages available, and judges in different countries have different views about the merits of the procedure in more complicated cases. 11/

78. There are, unfortunately, few research studies on the operation of the action civile system.* These few, however, and the experience of practitioners, confirm the common-sense view that the extent to which victims participate in the system and the extent to which judgements are given depend on all the above factors. Where there are real barriers, there may be only a handful of cases each year over the whole country. Where practice of the system is easier, large numbers of individual victims may participate.

79. Unfortunately, however, there is a difference between obtaining a judgement and receiving monetary compensation. Action civile is a civil judgement, though in a criminal setting, and its enforcement is usually left up to the victim. Some countries are now considering ways in which to solve the enforcement problem, by collecting money to help victims or by improving the civil procedures.

G. Compensation or restitution obtained from offenders through the criminal process

80. Some countries have enacted provisions that allow the victim to receive compensation or other forms of reparation as part of the criminal process. Most of these provisions are used as part of the offender's sentence; more rarely, the prosecutor may have the power to order compensation and, if it is paid, the case will not proceed any further. There are slightly different models everywhere.

81. In a few countries, for example, a compensation order can be made, as part of the sentence, in respect of any loss, damage or injury suffered by victims. 12/ The order is treated for enforcement purposes in the same way as any other financial penalty, imprisonment being the ultimate penalty for non-payment. The victim is therefore not responsible for enforcing the payment of compensation. In some countries, compensation can be ordered as part of a probation order or a deferred sentence, and the offender's probation officer attempts to ensure that payments are made. Prosecutors may also take responsibility for compensation to be paid as part of a diversion programme providing an alternative to incarceration or other sanctions.

82. Where offenders have limited financial means, some countries give priority to restitution or compensation over the imposition of fines. 8/ It is important to consider the offender's means when making awards, as it is not helpful to victims to raise expectations of compensation that cannot be met.

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*See, however, R. Zaubermann, "Victim-related alternatives and the criminal justice system: mediation, compensation and restitution", in G. Kaiser, ed., Proceedings of the II European Colloquium on Crime and Penal Policy in Europe (Freiburg, Max Planck Institute, 1989).

83. Research suggests that victims appreciate the concept of compensation by the offender, through the courts, regardless of whether it is also available from the State.* Compensation is seen to be a recognition of the hurt done to the victim by the offender. When such an order is made by the court, it is also a symbol of the State's concern for the victim. Victims have been found to be very concerned that they should be kept informed about decisions on awards, the reasons for any reduced awards, and action taken on non-payment. Prosecutors and sentencers, however, have other problems; they may, for instance, feel that compensation, as part of the sentence, mixes civil law and criminal law concepts. This objection does, nevertheless, seem to be becoming less strong as time goes by, and the number of orders made is quite considerable. Another problem for judges is that they may be unaccustomed, in their criminal justice role, to working out the quantum for, say, cases involving injury. Guidelines have been found to be very helpful here.

84. Procedures will need to be introduced to ensure that information about the losses and injuries suffered by victims is collected and presented to the prosecutor or sentencer to allow consideration of the right amount of compensation. Of course, where victims do not wish to receive compensation, it is important that they should be able to say so. Various mechanisms have been tried to ensure that information on losses and injuries is gathered and presented: statements on victim impact, compiled by victims or by probation officers or social workers;** forms, accompanied by clearly written explanatory leaflets, which victims are required to fill in, listing any financial losses, and return to the prosecutor, who then gives them to the judge; training of all concerned; and the development of criteria to help police and medical staff to take full and objective statements about losses and injuries.

H. State compensation

85. Many countries have introduced some form of State compensation scheme whereby the State pays compensation to victims who apply for it. Most of these are restricted to victims of violence or specific categories of crime or abuse of power (terrorism, economic crime etc.), usually because of the need to limit the State's financial liability and because these crimes are seen to be particularly serious and horrifying. In developing policy on the size and nature of awards, it is important to recognize that the value of demonstrating solidarity with victims may yield rewards that far outweigh the financial costs involved.

86. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, victims are entitled to receive compensation from the State whose officials or agents were responsible for the harm inflicted. In the case of crimes of abuse of power inflicting grave harm, in particular crimes recognized by international law (for example,

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*If compensation by offenders is well enforced - see Shapland and others, op cit; G. Maher and C. Doherty, Compensation Orders in the Scottish Criminal Courts (Edinburgh, Scottish Office); T. Newburn and H. De Peyrecave, Victims' Attitudes to Courts and Compensation, Home Office Research Bulletin, No. 23 (1987), pp. 24-27; but see also T. Fujimoto, "The victimological study in Japan", in H. Schneider, ed., The Victim in International Perspective (Berlin, 1982).

**Statements of the impact of the offence on the victim. See Canada Federal-Provincial Working Group on Justice for Victims of Crime, op. cit., 1985.

torture, forced disappearance, extra-legal execution), compensation involves considerable sums of money.

87. Those who apply for compensation under these schemes tend to see the decision taken on their applications as a judgement of their worth as victims (again, the symbolic aspect is relevant). As a result, it is important that the scheme should be considered from the point of view of the victim before it is set up or before any changes are made. From the very limited research results available, it seems that the procedures the victims have to contend with are very important in determining the degree of satisfaction achieved.

88. The following guidelines can be helpful:

(a) Setting out clear purposes for the scheme and clear limits on what is covered;

(b) Publicizing these conditions widely and making sure that eligible victims hear about the scheme (using the police and medical authorities to inform victims);

(c) Being prepared for the large number of applications likely to ensue from publicity, so that delays do not build up and staff morale does not deteriorate;

(d) Having forms that are easy to fill in, with suitable leaflets explaining the procedures involved;

(e) Acknowledging applications and informing victims of delays;

(f) Minimizing the need for legal assistance, additional forms and checks;

(g) Allowing a face-to-face inquiry service for victims (particularly those from ethnic minorities) who find bureaucratic procedures difficult to follow;

(h) Training and supporting the staff running the scheme so that they are not distressed by the details of the injuries and crimes revealed or by the pressure put on them by applicants;

(i) Allowing the award of interim payments in cases of long-term injury, illness or other effects;

(j) Notifying applicants promptly of the decision taken, the reasons for it and any subsequent procedures to be followed;

(k) Having an appeals procedure so that decisions can be properly reviewed when necessary.

I. International and transnational co-operation

89. Crime does not only happen to those residing in a country. Visitors, tourists and guest workers can be victims as well - and may often be particular targets for certain forms of crime. Their ability to cope with crime is generally less than that of residents of the country. The practices of the agencies concerned will be unfamiliar to the victims who will not know to whom they should turn; they may not know the language of the country; and they may not have a long-term address there. All agencies that deal with victims need to

be aware of the greater problems of non-residents and to be prepared to explain in detail how matters are handled in that country. There should be contact between victim assistance schemes in different countries so that support for victims can continue in their home countries.

90. In addition, very lengthy procedures (for example legal cases and compensation schemes) are likely to be still going on when the victim leaves the country. Here, contacts between State compensation schemes and between agencies of the criminal justice systems in different countries are very important. Ideally, each such scheme or agency should have a list of similar bodies in all other countries, with a contact name, so that requests for a medical report, for example, can be sent through that scheme or agency.*

91. Where a considerable number of people are seriously victimized, the country in which the offence occurs may well have insufficient resources to cope with the situation. At present there is no international fund that pays compensation (as opposed to immediate financial aid) in such circumstances (except for a very few, very specific kinds of crime and abuses of power). Recently, however, there have been examples of professionals from one country being prepared to help advise people in another on avenues of long-term support or financial redress and this is obviously a helpful trend.

V. ASSISTANCE

A. Emotional support

92. Clearly, much of the emotional support given to victims is not provided by any outside service but by family, friends, workmates and people in the community. Support from outside the victim's immediate circle of family and friends can come from the community itself or from a specialized victim agency or association. Where strong local mechanisms exist, much can be accomplished by training individuals to energize their own communities and point out the needs of victims, on the model of development work or medical services. This model is appropriate to a wide variety of circumstances: in less developed countries, in more developed countries where there is a tradition of strong community links or local volunteering, and for businesses ready to support their own employees. Workers, both volunteers and professionals, need training:

(a) To recognize the needs of victims;

(b) To provide emotional support;

(c) To teach families of victims and the community about their own reactions to crime, so that these reactions are not "taken out" on the victim;

(d) To recognize victims who require more specialized help or who may be eligible for State aid or reparation;

(e) To recognize their own need for support and seek to obtain it. Caring for victims can be an emotionally draining, as well as rewarding, experience, and workers need an organization to which they can turn for support and advice and for professional help in difficult cases.

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*One such example in the European Association of Victim Services.

For certain very serious or rare offences and for group victimization, a smaller, more professional service may be needed, or one that specializes in that offence.

93. The decision on the type of workers to be used is tied up with the decision on the method of delivery of services. So, for example, specialized services can only operate well if there is either good referral to them from other workers (police, community-based doctors, local victim support workers etc.) or if there is a well-publicized hot-line service for victims to get in direct touch with the specialized service. Where crimes involve abuse of power or offences that are seen as shameful (for example, sexual assaults), then hot-line facilities and publicity are very important.

94. Services that contact victims spontaneously ("outreach"), rather than relying upon victims to contact them, seem to have the largest number of victims helped and the largest number of victims who say they have been given the help they need, largely because victims remain very unaware of support services until they become victims, and even then are likely to be reticent about asking for help, and unclear as to why they are suffering emotional effects. 13/ Equally, police officers and other criminal justice personnel may be poor at recognizing victims who need help, tending to base their reactions on stereotypes that are often false, so referral systems that depend upon the police and others to inform victims of the help available to them may have fewer victims to deal with.

95. "Outreach", however, depends upon the service being notified of the existence of the offence and the victim. In many countries, the police, prosecutors or other criminal justice system agencies do notify services about victims, though this may be seen to raise a problem of potential invasion of privacy. Where the service is actually a part of the criminal justice system, then the problem may be minimized, in that support is part of the normal response of the system, but, some services for victims have found a conflict in being part of the criminal justice system, and many believe that, on principle, they should be independent of the system.

96. The best solution for a particular country will depend upon its own legal and social culture. Where privacy and confidentiality in keeping information about victimization within the agency originally notified are particularly valued, then referral systems will need to obtain a victim's consent before notifying the victim services. Effective methods have to be devised for this, involving checks by supervisors and training of criminal justice system personnel in the needs of victims and the benefits of victim assistance.

B. Immediate and long-term help

97. Many victim support services concentrate their help on the first few days after the offence, providing immediate help. In this way, they can help quantitatively more victims, since many suffer only temporary effects. Some victims, however, require more long-term support and others may need it at particular times (while attending court to give evidence, for example). As a very general guide, long-term help requires more knowledge and training on the part of the support workers. With multiple victimization, long-term support is clearly needed - and communities may feel very let down if national agencies or the State pull out shortly after the offence. Multiple victimization commonly affects the economic viability of families or communities and the support needed will not only be emotional, but practical and financial.

98. Running services to give support to victims is still in its infancy. No single model holds all the answers, nor is it known what aspects transfer best to other countries. But it is clear from research on the victims themselves that starting with a small response is better than doing nothing at all and ignoring the victims. Training criminal justice personnel, medical personnel and social personnel to give support to victims can be started with few resources, and this, by itself, will make victims feel more secure in their communities. Many State agencies and other agencies are already dealing with victims, but probably don't realize that they are (they are known as "claimants" or "complainants" or "patients"); they can be given an awareness of the reactions of victims, an essential first step towards improving their practice. Equally, there are at least some community resources in all societies. Many people will currently be giving victims help informally, but they need to know how to do it more effectively.

C. Medical assistance

99. Injured victims clearly require medical assistance - and this is as true of victims of abuse of power as it is of victims of more conventional crimes. Indeed, access to medical aid and support is one of the most important needs of victims of abuse of power, both to tend to injuries and because it provides the opportunity for documenting the effects on victims.

100. Medical personnel have three roles in relation to victims: as providers of immediate aid to those victims who are injured; as providers of more long-term care for physical or mental injury for the relatively small proportion of victims who require this; and as providers of evidence on the victim's injuries and mental state in relation to the criminal justice process, civil claims and the claiming of compensation.

101. In cases of sexual assault, the practice has been instituted in some countries of enabling female victims of sexual assault to choose to see a specially trained female doctor, should the victim so wish. Victims are also allowed to have a chosen companion with them during medical examinations and at hospital, and this possibility is suggested to them. In order to make medical personnel more sensitive to the feelings of the victims, it is necessary to train them and to set out specific procedures to be followed in emergency departments for cases of rape and other sexual assaults, including the provision of packs for the gathering of evidence from medical examinations. This is extremely important, because common stereotypes of the way that women, for example, react to invasive and shocking events, such as rape, are sometimes not correct. Some women will "freeze" and appear very cold and unconcerned, instead of tearful and emotional. It is possible that such women will be blamed for "not reacting in the right way" and "making the story up", simply because the way they react to such shocks is not the culturally expected one.

102. The need for medical staff to be sensitive to the particular needs of victims continues during the longer-term support role. Medical staff need to be aware of the victim support and assistance groups within the community, so that they can suggest that victims contact them. Family doctors should be trained to recognize that victimization may commonly give rise to physical or mental disorder. Some victims will need referral to more specialized psychiatric help. With the advent of acquired immunodeficiency syndrome (AIDS), all victims of serious sexual assault require follow-up over an extended period.

103. It is clearly important that doctors and other medical staff should deal with any evidential requirements competently and with the minimum of disruption to their care of their patients. They will need, for example, to describe both physical and mental effects on victim patients for compensation proceedings. Equally, it is sometimes not appreciated either by legal professionals (such as police) or by medical professionals that obtaining evidence can cause victims great distress. For example, taking a statement from a distraught victim shortly after the offence has been found not to be the most effective method of obtaining reliable evidence. It is better to glean essential information quickly (a description of an attacker, for example) and leave formal statement taking until the victim has calmed down, perhaps the next morning.

D. Emergency help for multiple victimization

104. The problems in dealing with individual victims are obviously amplified when there is group victimization caused by crime or abuse of power (such as terrorism, or major breaches of health and safety legislation causing explosions, transport crashes, serious pollution or radiation leaks). Local medical services will be severely stretched and are likely not to have the necessary specialized equipment. The same applies to other emergency equipment, such as heavy lifting equipment, specialized engineering, body-seeking technology, and public health measures. Support facilities, such as temporary housing, mortuaries, feeding stations and support staff, are also unlikely to be present in the specific locality. By definition, disasters are unusual events and they will swamp the local supply of professional workers. It is important that there should be some contingency planning at the national or regional level, both for obtaining relevant supplies and for producing lists of qualified people who can assist the victims.

105. There has been a very welcome development in recent years of specialized workers in different countries (medical personnel, fire fighters and engineers, for example) forming themselves together into small teams with a contact person, often under the umbrella of their employing organization, and volunteering to go to help with disasters in other parts of the world, for periods of a few days to a few months. This kind of international resource is extremely valuable, provided that the offers are co-ordinated and relevant to the local needs. The international relief agencies are developing considerable experience here.

106. Multiple victimization requires not only immediate action to tend to the injured and restore vital services more long-term work by support agencies with those affected, both to counsel and to arrange compensation, where necessary. Again, there have been developments in the organization of social work teams to provide such counselling and to co-ordinate and train local volunteers. The task is both to provide appropriate counselling and advice and to ensure that it is co-ordinated so that all victims are helped.

E. Practical help

107. Victims of crime may require a variety of types of practical help as a result of their victimization. Victims of burglary, for example, may need to have their house locks replaced or damage repaired. Victims of arson, of assault by their spouses or of racial harassment may require temporary accommodation or rehousing. The precise need will depend upon the nature of the offence and its effects. A variety of agencies and bodies may be involved. State and community housing bodies and business landlords commonly deal with

the problems caused by vandalism, burglary and arson. Insurance companies and loss adjusters deal with insurance claims as the result of crime. Some victim associations, particularly those involved with assaults within the family, provide temporary accommodation (refuges or hostels) and have links with repairers to help those who cannot arrange repairs themselves, or to provide temporary transport.

108. Given the wide variety of practical needs and suppliers of practical help, it is difficult to give general guidance. For many groups, however, work with victims will be a minor part of the work-load. Some professions and businesses will be surprised to find they are dealing with victims and will be unaware of the kinds of demands that may be made upon them, for emotional support as well as for practical help. Large-scale business landlords who own small business properties in high-crime areas, and professionals such as insurers and loss adjustors, may find that their contacts with victims will be sufficiently frequent to make it important for them to help their staff to understand the problems of victims.* It will often make much better commercial and business sense if small businesses and individual householders are helped and supported so that they can return to their normal lives as quickly as possible. This may require business support services and local business associations to step outside their traditional roles and offer practical help to get the business going again as quickly as possible (finding alternative premises, supplying temporary telephone or computer facilities, providing lists of damage repairers etc.).

F. Agency response and interagency co-operation

109. It is clear from the discussion of victims' needs and victim services that victims usually deal with many agencies, some within the criminal justice system and some with welfare, social and financial functions, as well as with the press and community groups. To be effective, the provision of services to victims must be co-ordinated. With respect to the provision of information, for example, the victim may need to get in touch with several other branches of the criminal justice system or, preferably, the agencies will need to co-ordinate their response to the victim's needs, so that he or she can deal with just one person, who is able to follow the case from beginning to end.

110. At the national, regional and local levels, someone should be designated to investigate the effects of the efforts being made by agencies to respond to victims' needs. The process of bringing agencies together to work for victims is long and tortuous. It involves making people aware of the effects of current procedures within agencies through media publicity, dissemination of research results, discussion groups, conferences, task forces and training sessions. It involves considering all new legislative initiatives from the point of view of the victims, in order to build effective co-ordination into the system. It may also be necessary to set up special victim-oriented groups or facilitators.

VI. WAYS FORWARD

111. Producing an effective and co-ordinated system for victim services is not just a "good thing" in itself. All criminal justice systems are fundamentally dependent upon victims - to report cases, to help investigators

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*See, for example, J. Shapland and P. Wiles eds., Business and Crime: a Consultation (Swindon, Crime Concern, 1989).

and to give evidence in courts. The trust of victims in the operation of criminal justice and social services is a vital element of their trust in that State and society. What happens to victims will be reported throughout their community and to their neighbours, relatives and friends.

112. Obviously, any attempt to help victims and to meet their needs and requirements will depend upon the resources and circumstances of the particular country and locality. But there are often different ways of attaining what is needed. Many of them cost nothing, or very little. There is evidence that change is most effectively communicated in a two-stage process. 14/ The first stage - and a relatively inexpensive one - is to change the attitudes of those who deal with victims so that they realize that the existing system is not the most ideal and that the victims are not necessarily satisfied with it. The second is deciding upon and instituting change.

113. One modest avenue of approach, where national remedies have proved inadequate, lies in the fuller use of intergovernmental human rights bodies, especially in cases of abuse of power. Universal ratification of United Nations human rights treaties, including the Optional Protocol to the International Covenant on Civil and Political Rights (see General Assembly resolution 2200 A (XXI), annex), providing for the examination of individual complaints, would extend the availability of a proven remedy. Complaints mechanisms existing under regional human rights treaties* should be available to all in the region whose States are entitled to accept these treaties. The compulsory jurisdiction of the American and European Courts of Human Rights can offer particularly authoritative remedies.

114. For those in the process of implementing the Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power an international exchange of ideas and experiences is very useful. Knowing what others have tried sparks off new ideas and allows an evaluation of how new means might be adapted for use in particular local cultural circumstances. The Declaration can serve as bases for these efforts. But the process of implementation has only just begun. This Guide is not a definitive statement of how victim services might be achieved - it is merely a digest of the experiences of countries that are searching for ways to provide justice for victims. It is itself a starting point for future development in the spirit of the Declaration.

Notes

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2/ J. Morgan, "Children as victims", in Victims of Crime: a New Deal?, M. Maguire and J. Pointing, eds. (Milton Keynes, Open University Press, 1988).

3/ United Nations surveys of crime trends, operations of criminal justice systems and crime prevention strategies (A/CONF.121/18 and Corr.1 and A/CONF.144/6).

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*For example, the African Charter of Human and People's Rights, the American Convention on Human Rights and the European Convention on Human Rights.

4/ Society for Traumatic Stress Studies, "Initial report from the Presidential Task Force on Curriculum, Education, and Training", San Francisco, 1989.

5/ NOVA, Victim Rights and Services: a Legislative Directory (Washington, D.C., United States Department of Justice, 1985) and Canada Federal-Provincial Working Group on Justice for Victims of Crime, Implementation report, Ottawa, 1985.

6/ Ministère de la justice, France, Guides des droits des victimes (Saint-Amand, Gallimard); and D. Austern, The Crime Victims' Handbook: your Rights and Role in the Criminal Justice System (New York, Viking Press, 1987).

7/ International Committee of the Red Cross, "ICRC protection and assistance activities in situations not covered by international humanitarian law", International Review of the Red Cross, No. 262, 1988; Disappearances: a Workbook (New York, Amnesty International USA, 1981); N. S. Rodley, "The international legal consequences of torture, extra-legal execution and disappearance", in New Directions in Human Rights, E. L. Lutz, H. Hannum and K. J. Burke, eds. (Philadelphia, University of Pennsylvania Press); Laurence Boisson de Chazournes and others, Practical Guide to the International Procedures Relative to Complaints and Appeals against Acts of Torture, Disappearances and Other Inhuman or Degrading Treatment (S.O.S. Torture/World Organization against Torture, Geneva, 1988).

8/ Council of Europe, Recommendation on Assistance to Victims and the Prevention of Victimization, 1987 (No. R(87)21).

9/ Schadler, W., "The situation of crime victims in the Federal Republic of Germany", in Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations, Changing Victim Policy: the United Nations Victim Declaration and Recent Developments in Europe, HEUNI Publication No. 16 (1989).

10/ For example, I. Clegg, P. Harding and J. Whetton, "Comparative study of judicial processes in magistrates' courts in Kenya and Zambia", Centre for Development Studies, University of Wales, Swansea, 1989.

11/ M. Joutsen, The role of the Victim of Crime in European Criminal Justice Systems, HEUNI Publication No. 11, 1987.

12/ J. Shapland, J. Willmore and P. Duff, Victims in the Criminal Justice System (Aldershot, Gower, 1985); and T. Newburn, The Use and Enforcement of Compensation Orders in Magistrates' Courts (Home Office Research Study No. 102 (London, H.M. Stationery Office, 1988).

13/ M. Maguire and C. Corbett, The Effects of Crime and the Work of Victims Support Schemes (Aldershot, Gower, 1987).

14/ Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations, op. cit.